

(2013) 06 KAR CK 0072

In the Karnataka High Court

Case No : Criminal Revision Petition No. 518 of 2013

Ganesh Devadiga

APPELLANT

Vs

M. Jagadishchandra Hegde, Ramadasa Acharya, Mohan
Samagara and Vinay Kumar Shetty

RESPONDENT

Date of Decision : 26-06-2013

Acts Referred:

Citation : (2013) 06 KAR CK 0072

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : S.K. Acharya, for the Appellant;

Final Decision : Disposed Off

Judgement

Anand Byrareddy, J.—Heard the learned Counsel for the petitioner. The petitioner was the complainant, who had approached the Court of the Special Judge, under the Prevention of Corruption Act, 1988 (Hereinafter referred to as the "PC Act", for brevity), seeking that there be initiation of proceedings against the members of a Committee in the management of Shri Durga Parameshwari Temple at Mundkoor in Karkala Taluk. But however, the court below has considered the complaint and has dismissed the same, holding that the allegations in the complaint did not fall within the domain of the court below to order investigation. It is that which is under challenge in the present petition. The learned counsel for the petitioner would point out that the concerned temple is governed under the provisions of the Hindu Religious Institutions and Charitable Endowments Act, 1997 and the Committee of Management is responsible for the day-to-day affairs of the institution and the members of the Committee are public servants within the meaning of the PC Act. The allegations in the complaint were supported by abundant material and the same has been overlooked by the court below in negating the complaint and proceeding to hold that the allegations would, at best, make out a civil dispute and therefore, the petitioner has remedies under the civil law. This, according to the petitioner, leads to a miscarriage of justice as

there has been a large scale defalcation by the concerned persons in the Managing Committee. In this regard, the court below has noticed that there was a Managing Committee for the period from 27.12.2001 to 26.12.2006 and the complaint was brought only in October 2012, namely, after a lapse of 7 years of the alleged misappropriation or other irregularities. In this regard, it is also observed that the Commissioner for Hindu Religious and Charitable Endowments had passed an order directing an inquiry and appointed an inquiry Committee, consisting of two members headed by M.A. Jagadish and D. Nagaraju, as per order dated 10.7.2007 and the Committee had submitted a report. On the strength of the report, the Assistant Commissioner for Hindu Religious and Charitable Endowments had directed repayment of the amounts stated in the order dated 26.8.2008.

2. However, it was further contended by the learned Counsel for the petitioner herein that the inquiry report does not cover all the criminal acts, malpractices and corrupt practices that are brought to light by the complainant and therefore, it was a fit case where investigation was to be ordered. In that, the guilt of the concerned could be identified and they could be brought to book. The same having been foreclosed with a cryptic order that the petitioner is left to his civil remedies, leads to a miscarriage of justice, as the guilty and the corrupt would get away with their misdeeds and therefore pleads that the petition be allowed. As it is not denied that there are authorities, who are conferred with the power to inquire into any kind of mismanagement or irregularity in the management of the affairs of the temple, the petitioner could even now petition the concerned authorities to take further action in this regard and if there is any criminality involved in conduct of the concerned, it is again for the very authorities to initiate criminal action. This cannot be short-circuited by the petitioner by recourse to proceedings before the Special Court. Therefore, it is open for the petitioner to make a further representation to ensure that all aspects, which are pointed out by the petitioner and duly supported by material, are inquired into and if the authorities should find that there are any misdeeds which attract criminal prosecution, it would be appropriate to initiate criminal prosecution as well.

With that observation, the petition stands disposed of. The Special Court having taken a view insofar as the jurisdiction and other aspects are concerned, cannot really be faulted as there are parallel authorities to consider the allegations, if any, as regards the alleged criminal activity of the concerned. The order dismissing the complaint of the petitioner would not come in the way of further investigation that may be carried out by the competent authorities.